IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO: 16048 of 2005

Between:

Ch.Raja Reddy S/o Kishtaiah
E.No.675403, R/o Mosra, Mandal-Varni,
District Nizamabad.

..... PETITIONER

AND

1 The Divisional Manager APSRTC., Nizamabad.
2 The Depot Manager, APSRTC Bus Depot (NZB-I)
Nizamabad .
3 The Depot Manager, APSRTC Bus Depot (NZB-II)
Nizamabad .

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or direction particularly one in the nature of Writ of CERTIORARI and quash the impugned punishment passed in Proceedings No.01/29180/2000-NZB, dt.24-4-2001, as confirmed by the 1st respondent in Proceedings No.Steno/19(161)/2001-DVM:NZB, dt.23-4-2004 as arbitrary, unjust, in violation of ARt.14,16 and 21 of the constitution of India and also in violation of Reg.12(2) of the APSRTC CCA Regulations, 1967 and consequently direct the respondents to restore the deferred increment along with all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.V.T.M.PRASAD

The Court at the admission stage made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the orders of the respondents 1 and 2.

2. According to the petitioner, he was appointed as a Driver in the year 1996 and his services were regularized with effect from 01-01-1998. While continuing as such in the service of the respondent-Corporation, he was served with a charge memo on 18-09-2000 alleging that the petitioner drove the vehicle in a rash and negligent manner on 28-08-2000 causing accident to the vehicle. For which, the petitioner submitted his explanation dated 28-09-2000. Thereafter, the respondent without conducting any domestic enquiry issued a show cause notice dated 16-02-2001 proposing to impose a punishment of deferment of annual increment. Though the petitioner submitted his explanation dated 18-04-2001, the second respondent passed the impugned order dated 24-04-2001 imposing punishment of deferment of annual increment for a period of two years which will have its effect on future increments in addition to the recovery of Rs.1,000/- towards the costs of damage. Aggrieved by that, the petitioner filed an appeal before the first respondent and the first respondent also confirmed the order of the second respondent by his order dated 23-04-2004. Hence, the present writ petition.

3. According to the learned counsel for the petitioner, the imposition of a major penalty of withholding of annual increment for a period of two years with cumulative effect is illegal and unsustainable in view of the judgments of the Supreme Court as well as this Court. Therefore, the impugned order is liable to be set aside.

4. The learned Standing Counsel, however, sought to sustain the same order.

5. Heard both sides and considered the material on record.

6 . Admittedly, the impugned order of imposition of punishment without conducting domestic enquiry is illegal and unsustainable. Further, as the petitioner was charge sheeted as early as in the year 2000, it is not proper and just to set aside the impugned order and remit the matter back to the disciplinary authority for fresh proceedings.

7. Under the above circumstances, this Court inclines to modify the cumulative effect of the impugned order in withholding of annual increments to the extent of deleting the withholding of annual increments 'with cumulative effect' i.e., the imposition of punishment of withholding of annual increment for a period of two years is sustained but the same shall not have the effect of postponing the future increments. The modification of the impugned order shall be effective only from the date of the order of this Court. The petitioner is not entitled for any monetary benefit, as a result of the modification of the order, prior to the date of the order of this Court.

8. Accordingly, the writ petition is disposed of. No order as to costs.

S.ANANDA REDDY, J

22nd July, 2005

SKM

Copy to:

1 The Divisional Manager, APSRTC., Nizamabad.

2 The Depot Manager, APSRTC Bus Depot (NZB-I)
Nizamabad .

3 The Depot Manager, APSRTC Bus Depot (NZB-II)
Nizamabad .

4 1 CC to MR.NARASIMHA GOUD

5 Two C.D. Copies.